IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO. 22111 of 2004

Between:

R.Srirama Reddy S/o.Narayana Reddy
R/o.Karvulapalli, Gorantla Mandal, Anantapur District.

.PETITIONER

AND

1 The Collector and District Magistrate, Anantapur.
2 The government of A.P. rep by Chief Secretary, Secretariat Hyderabad.
3 The Superintendent, Central Prison, Cherlapalli, R.R.Dist

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Habeas Corpus under Art.226 of the Constitution of India directing the Respondents to produce the detenu Chinta Ram Mohan Reddy, now detained in Central Prison, Cherlapalli, before this Hon'ble Court and he may be ordered to be released forthwith after declaring that his detention is illegal and void and pass.

Counsel for the Petitioner: Mr. C. PRAVEEN KUMAR

Counsel for the Respondent No.: THE ADVOCATE GENERAL

The Court made the following :

JUDGMENT: (per the Hon'ble Dr.Justice G. Yethirajulu)

1. This is a writ petition filed by the petitioner for issuing a writ of Habeas Corpus under Article 226 of the Constitution of India directing the respondents to produce the detenu Sri R. Chinta Ram Mohan Reddy, now detained in Central Prison, Cherlapalli before this Court and to order his release forthwith.

2. The petitioner is the brother-in-law of the detenu Sri Chinta Ram Mohan Reddy. The first respondent passed an order of detention on 18-9-2004 under Section 3 of the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug offenders, Goondas, Immoral Traffic offenders and Land Grabbers Act, 1986 (Act 1 of 1986) (hereinafter referred to as 'the Act' for the sake of brevity) on the ground that he is a "goonda" and he is acting in a manner prejudicial to the maintenance of public order. The detenu was directed to be detained on the basis of five incidents mentioned in the grounds of detention. Incident No.1 relates to an offence occurred on 11-5-1995, incident No.2 relates to an offence occurred on 19-8-1997, incident Nos.3 and 4 relate to the offences occurred on 26-7-2002 and incident No.5 occurred on 6-2-2004. The learned senior counsel Sri C.Padmanabha Reddy submitted that the order of detention was mechanically passed without application of mind on vague, irrelevant and non-existing grounds and in flagrant violation of the

provisions of Article 22 (5) of the Constitution of India, therefore, the order of detention is liable to be set aside. He further submitted that incidents 1 and 2 relate to 1995 and 1997, therefore, they are stale incidents. There was no proximity in time between the dates of the offences and the order of detention to provide a rational nexus between the incidents relied upon and the satisfaction arrived at. Therefore, they cannot be treated as justifiable grounds for passing an order of detention. He further submitted that the fifth incident is nothing but opening a rowdy sheet against the detenu, therefore, it cannot be treated as a ground for passing the order of detention and it is an irrelevant ground. Even if one ground is irrelevant, the entire order of detention has to be quashed as it is not possible to say as to which ground weighed with the detaining authority. He also submitted that the detaining authority failed to furnish the copies of the documents relating to the grounds of detention, therefore, it is a clear violation of the mandatory provision of Article 22 (5) of the Constitution of India. He therefore requested to quash the order of detention by declaring that it is illegal and void.

3. The first respondent filed a counter-affidavit mentioning that since the detenu is habitually committing the offences covered by the incidents and as he is a dangerous and desperate person and as the ordinary provisions of Penal Code are not having any deterrent effect, the detenu is likely to repeat the violent acts in future, therefore, the order of detention has been passed and it is sustainable under law.

4. The learned Advocate General drew the attention of this Court to a latest judgment of the Supreme Court in **Collector and District Magistrate, W.G. District, Eluru, Andhra Pradesh and others v. Sangala Kondamma**, which was delivered on 9-12-2004 in Criminal Appeal No.1451 of 2004 arising out of S.L.P.(Cri) No.5341 of 2003, wherein the Supreme Court while dealing with the provisions of Act 1 of 1986 held that if the incidents are proximate to each other, the fact that initial few incidents are not proximate to the order of detention would not make the order of detention bad.

5. In the case on hand, incident No.1 was on 11-5-1995 and the arrest of the detenu was made on 19-8-1997. Incident No.2 relates to 1997. These two incidents were five years earlier to incidents 3 and 4. Though incidents 1 and 2 were proximate to each other, they were not proximate to incidents 3 and 4. There is more than two years gap between incidents 3 and 4 and the date of the order of detention, therefore, incidents 3 and 4 are also not proximate to the date of the order of detention. Incident No.5 is not relevant to the other incidents. The learned counsel for the petitioner rightly pointed out that incident No.5 does not relate to any of the offences punishable under Chapters XVI, XVII and XXII of the Indian Penal Code, therefore it is an irrelevant ground. In view of so much gap between incidents 1 and 2 and incidents 3 and 4, they cannot be treated as proximate to each other and incidents 3 and 4 are also not proximate to the date of the order of detention, therefore, the principle laid down by the Supreme Court in **Sangala Kondamma** (1 supra) is not applicable to the facts of the case on hand. We, therefore, have no hesitation to hold that there is no proximity in time between the dates of one incident to the other and the last incident to the date of order of detention to provide a rational nexus between the incidents and the order of satisfaction arrived at by the District Magistrate. The stale and irrelevant incidents cannot be construed as justifiable grounds for passing the order of detention. We, therefore, hold that the order of detention is not sustainable in the eye of law. The writ petition is accordingly allowed. The order of detention dated 18.9.2004 passed against the detenu is quashed. The concerned authorities are directed to release the detenu forthwith, if he is not required in any other case.

(BILAL NAZKI, J)

(Dr.G. YETHIRAJULU, J)

30th December 2004.

Svs

…. REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Collector and District Magistrate, Anantapur.
2. The government of A.P. rep by Chief Secretary, Secretariat
   Hyderabad.
3. The Superintendent, Central Prison, Cherlapalli, R.R.Dist
4. 2.CCs to the Advocate General, High Court Buildings, Hyderabad.
5. 2.C.D.copies.